IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3133 OF 2003

1.Smt Bhimabai Damodar Raghuvir
and ors. .. Petitioners
Vs
1. The Board of Trustees of the
Port of Mumbai and Anr. .. Respondents
Mr R.D.Soni, i/b M/s Ram & Co. for the petitioners.
Mr S. Mehta i/b M/s Mulla & Mulla & CBC for
respondent no.1.

CORAM : D.B.BHOSALE, J.

DATE : FEBRUARY 24, 2005.

P.C.

1. Heard the learned counsel for the parties.

2. Mr Mehta, learned counsel for respondent no.1, raised a preliminary objection that the writ petition is not maintainable in view of the fact that a statutory appeal is provided against the order impugned in the present writ petition. Having confronted with this, Mr Soni, learned counsel for the petitioner prayed for withdrawal of this petition and protection for a period of eight days only.

3. I have perused the petition. Keeping in view the delay in filing the writ petition against the impugned order, which was appealable, and considering

that an ad-interim relief was not extended after 4.7.2003, in my opinion, the petitioner does not deserve any protection as prayed for. However, in the interest of justice, and to enable them to file a substantive appeal, I am inclined to grant protection for eight days only. Hence, I pass the following order.

(i) The writ petition is allowed to be withdrawn with liberty as prayed for. If such an appeal is filed, same may be dealt with in accordance with law. The respondents shall not take further steps to take possession of the disputed premises only for a period of eight days.

(ii) Needless to express that granting of liberty to file a substantive appeal against the order impugned in the present writ petition shall not be construed to mean that delay in filing the appeal, is condoned by this order.

. An authenticated copy of this order may be made available to the parties.

(D.B.Bhosale, J.)